

EXHIBIT 1

Oral Argument - July 06, 2021

<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE DISTRICT OF DELAWARE 3 4 VLSI TECHNOLOGY LLC,) 5)Civil Action No. 6 Plaintiff,)18-cv-966-CFC-CJB 7) 8 v.) 9) 10 INTEL CORPORATION,) 11) 12 Defendant.) 13 14 Tuesday, July 6, 2021 15 2:01 p.m. Eastern Time 16 17 ORAL ARGUMENT VIA REMOTE VIDEOCONFERENCE 18 19 BEFORE: HON. JENNIFER L. HALL, Judge 20 21 LEXITAS REPORTING 22 Registered Professional Reporters 23 1330 King Street 24 Wilmington, Delaware 19801 (302) 655-0477 www.lexitaslegal.com</p>	<p>1 THE COURT: Good afternoon, 2 everyone. We are here today to hear a 3 motion filed by Intel in VLSI 4 Technology, LLC versus Intel 5 Corporation. That's Civil Action 6 No. 18-966. The motion is filed under 7 Docket No. 689. 8 Who do we have on the line 9 today for VLSI starting with Delaware 10 counsel? 11 MR. FARNAN: Good 12 afternoon, Your Honor. Brian Farnan 13 on behalf of VLSI. Here with me is 14 lian Jablon, and also for the client 15 we have Mr. Stolarski. 16 THE COURT: Good afternoon 17 to all of you. 18 Who do we have on the line 19 today from Intel? 20 MR. TIGAN: Your Honor, 21 this is Jeremy Tigan with Morris 22 Nichols appearing on behalf of Intel. 23 I am joined by Greg Lantier 24 and Rachel Bier. They're both with</p>
<p>1 APPEARANCES: 2 BRIAN E. FARNAN, ESQ. 3 FARNAN LLP 4 919 N. Market Street - 12th Floor 5 Wilmington, Delaware 19801 6 -and- 7 IIAN D. JABLON, ESQ. 8 IRELL & MANELLA LLP 9 1800 Avenue of the Stars - Suite 900 10 Los Angeles, California 90067 11 For the Plaintiff 12 13 JEREMY A. TIGAN, ESQ. 14 MORRIS, NICHOLS, ARSHT & TUNNELL, LLP 15 1201 North Market Street 16 Wilmington, Delaware 19899 17 -and- 18 GREGORY H. LANTIER, ESQ. 19 RACHEL BIER, ESQ. 20 WILMER CUTLER PICKERING HALE AND DORR 21 LLP 22 1875 Pennsylvania Avenue, NW 23 Washington, DC 20006 24 For the Defendant - - -</p>	<p>1 Wilmer Hale. And Mr. Lantier will 2 argue for us today. 3 And just so you know, we 4 also have two client representatives 5 on, Mashhood Rassam and Kimberly 6 Schmitt. 7 THE COURT: Very good. 8 Good afternoon to all of you. 9 So I can tell you all that 10 I've read the papers. I had a 11 recollection of where things stood the 12 last time we were all here, and it 13 looks like there's been some 14 developments. But I'm interested to 15 hear an update about what might be 16 going on in the chancery court. 17 And, well, we've all been 18 on the Zoom before together, but just 19 a reminder there's no need to stand 20 when making your presentation. You're 21 welcome to sit. 22 I have a little bit of time 23 today, and I do have some questions, 24 but if we could keep it to under 15</p>

<p style="text-align: right;">45</p> <p>1 perspective.</p> <p>2 But the most important</p> <p>3 thing to us is that we are able to</p> <p>4 pursue our substantive rights under</p> <p>5 this contract which give us a full</p> <p>6 defense to all of the infringement</p> <p>7 allegations in this case.</p> <p>8 THE COURT: Thank you very</p> <p>9 much.</p> <p>10 MR. JABLON: If I may</p> <p>11 briefly respond, just very briefly,</p> <p>12 Your Honor. I wanted to --</p> <p>13 THE COURT: You can have a</p> <p>14 minute, but then I will give</p> <p>15 Mr. Lantier the last word. Go ahead.</p> <p>16 MR. JABLON: Thank you,</p> <p>17 Your Honor. I just wanted to point</p> <p>18 out that when Intel raised this issue</p> <p>19 with VLSI we immediately told Intel we</p> <p>20 are not a party to this contract. We</p> <p>21 are not bound by it. We are not bound</p> <p>22 by its dispute resolution provisions.</p> <p>23 And so at that moment in</p> <p>24 time Intel knew everything it needed</p>	<p style="text-align: right;">47</p> <p>1 provisions.</p> <p>2 And he wrote back and said</p> <p>3 VLSI is not waiving any of its rights</p> <p>4 under the dispute resolution</p> <p>5 provisions and we'll tell you if we're</p> <p>6 waiving rights. So that's just simply</p> <p>7 not reflective of reality.</p> <p>8 And, Your Honor, I don't</p> <p>9 think that this sort of amorphous</p> <p>10 suggestion that the chancery court is</p> <p>11 a black hole into which cases go and</p> <p>12 never come out is accurate. The</p> <p>13 chancery court moves quickly. We have</p> <p>14 been trying to advance the case as</p> <p>15 quickly as we can.</p> <p>16 And I don't -- I personally</p> <p>17 don't think there would be any delay</p> <p>18 in entry of judgment if we allowed the</p> <p>19 chancery court case to proceed and</p> <p>20 then allowed this case to proceed on a</p> <p>21 parallel track. They're going to be,</p> <p>22 by my count, very similar in terms of</p> <p>23 time to trial.</p> <p>24 And I would expect the</p>
<p style="text-align: right;">46</p> <p>1 to know to go file its motion to amend</p> <p>2 its answer in this case. And that was</p> <p>3 last August, Your Honor.</p> <p>4 And so the delay of many</p> <p>5 months past that including more than</p> <p>6 additional two months after Your Honor</p> <p>7 specifically told them last November</p> <p>8 that you didn't understand why they</p> <p>9 hadn't raised it in this case, it's</p> <p>10 not good enough under Rule 16, Your</p> <p>11 Honor. Thank you very much.</p> <p>12 THE COURT: Thank you.</p> <p>13 MR. LANTIER: Your Honor,</p> <p>14 so two points. That's not true. I</p> <p>15 would be happy to forward to Your</p> <p>16 Honor the email that I received from</p> <p>17 Mr. Jablon's partner Mr. Hattenbach,</p> <p>18 who specifically said to me when I</p> <p>19 asked him if -- I said to him I</p> <p>20 understand you're saying you're not</p> <p>21 bound by this agreement. Our</p> <p>22 understanding is that VLSI isn't going</p> <p>23 to object if we move forward without</p> <p>24 going through the dispute resolution</p>	<p style="text-align: right;">48</p> <p>1 chancery court case might wind up a</p> <p>2 little bit sooner. It's anybody's</p> <p>3 guess. I'm not -- I don't know when</p> <p>4 trials will be scheduled.</p> <p>5 But I just think it's not</p> <p>6 correct to think that staying the</p> <p>7 defense here is going to lead to some</p> <p>8 in-depth stay. It may be a couple of</p> <p>9 months either way, but we're not</p> <p>10 talking about a massive additional</p> <p>11 delay here.</p> <p>12 THE COURT: I understand</p> <p>13 your position.</p> <p>14 So here's what I'm thinking</p> <p>15 about doing today. I need a few</p> <p>16 minutes to get my thoughts together</p> <p>17 about some of the arguments that were</p> <p>18 made today. I do think that I'll be</p> <p>19 in a position to get you an answer</p> <p>20 today on the pending motion.</p> <p>21 So what I would like to do</p> <p>22 is exit out of the Zoom conference.</p> <p>23 It's 2:42 right now. If we could all</p> <p>24 get back on at 3:10, I think at that</p>

<p>49</p> <p>1 point in time I could give you a 2 ruling on the pending motion. 3 So I don't know how you all 4 would like the proceed, but I 5 personally am going to leave the 6 conference and then dial back in using 7 the same link, if that works. Is 8 there any problem with me doing it 9 that way technologically? 10 MR. LANTIER: No, Your 11 Honor. 12 THE COURT: All right. 13 MR. LANTIER: Thank you. 14 THE COURT: Very good. All 15 right. If everybody could be back at 16 3:05. If we experience a delay here 17 we'll have the court deputy let 18 everybody know when we anticipate 19 being able to proceed. Thanks. 20 (A brief recess was taken.) 21 THE COURT: This is 22 Jennifer Hall. I'm prepared to give 23 the parties my ruling. 24 This is my ruling on</p>	<p>51</p> <p>1 entered into with third party Finjan. 2 That's Docket No. 643. 3 Intel believes that 4 settlement with Finjan also grants it 5 a license the VLSI's patents. After 6 considering the stay factors, I 7 concluded that on balance a stay was 8 not appropriate, particularly since 9 Intel had not yet filed any chancery 10 court action. And that's Docket 11 No. 669. 12 In my order I also pointed 13 out that Intel claims to have 14 triggered the formal dispute 15 resolution process under the 16 Finjan-Intel agreement. 17 The presuit dispute 18 resolution process has apparently 19 concluded, and on January 22, 2021 20 Intel filed an action in chancery 21 court against Fortress, Finjan, and 22 VLSI, seeking, among other things, a 23 declaration that it has a license to 24 VLSI's patents.</p>
<p>50</p> <p>1 Intel's motion for leave to file its 2 second amended answer and 3 counterclaims and to sever and stay 4 its defense of license. That's Docket 5 No. 689. 6 For the reasons that follow 7 I will grant Intel leave to file its 8 seconded amended answer and 9 counterclaims, but its request to 10 sever and stay its license defense is 11 denied. 12 This case is three years 13 old and has been heavily litigated. 14 Since it was filed in June of 2018 the 15 docket has accumulated over 700 items. 16 This is the second time I have heard a 17 dispute between the parties regarding 18 Intel's contention that it has a 19 license to VLSI's patents. 20 I heard an earlier motion 21 in which Intel sought to stay this 22 case pending an action it planned to 23 file in chancery court enforcing the 24 terms of a settlement agreement it</p>	<p>52</p> <p>1 Intel filed a present 2 motion back in February of 2021. 3 Intel's motion seeks leave to amend 4 its answer to include a license 5 defense. In the event that I grant 6 its motion to amend, Intel also seeks 7 to sever its defense of license and to 8 stay that defense. 9 The deadline for amending 10 the pleadings was September 4, 2019. 11 When a party seeks to amend a pleading 12 after the scheduling order's deadline 13 for pleading amendments has passed, 14 the Court must first apply Federal 15 Rule of Several Procedure 16(b). 16 Under Rule 16(b)(4) the 17 scheduling order may be modified only 18 for good cause and with the judge's 19 consent. To show good cause the 20 movant must demonstrate that, despite 21 diligence, amendment could not have 22 been reasonably sought in a timely 23 manner. 24 Considering the record</p>

<p style="text-align: right;">53</p> <p>1 before the Court, I find that Intel 2 has shown good cause. Intel's theory 3 is that it became licensed to the 4 patents-in-suit when Fortress acquired 5 Finjan. That acquisition did not 6 happen until July 2020, after the 7 deadline to amend the pleadings had 8 expired. 9 I further find that Intel 10 has been reasonably diligent in 11 seeking to assert its license defense 12 after July 2020. The record reflects 13 that since that time Intel has pursued 14 mediation pursuant to the agreement 15 and has asserted a separate action 16 against Finjan, Fortress, and VLSI to 17 enforce the terms of that agreement. 18 VLSI argues that Intel 19 waited too long after July 2020 to 20 seek leave to amend, but the record 21 does not reflect that Intel was idle 22 during the approximately six months 23 between the Fortress-Finjan 24 acquisition and filing the present</p>	<p style="text-align: right;">55</p> <p>1 demonstrated good cause within the 2 meaning of Rule 16(b). 3 Having found that good 4 cause exists to allow amendment after 5 the deadline, the Court must also 6 ensure that amendment is appropriate 7 under Federal Rule of Civil Procedure 8 15. Rule 15(a) provides that the 9 Court should freely give leave to 10 amend when justice so requires. 11 In assessing whether to 12 grant leave, courts consider several 13 factors including undue delay or bad 14 faith by the parties seeking leave to 15 amend, prejudice to the nonmoving 16 party, futility of the proposed 17 amendments, and judicial economy. 18 VLSI argues that Intel 19 should not be granted leave to amend 20 under Rule 15 because Intel's license 21 defense is futile and because VLSI 22 would be prejudiced if Intel is 23 allowed to amend. 24 Let's talk about futility</p>
<p style="text-align: right;">54</p> <p>1 motion. 2 Rather, the record reflects 3 that Intel attempted to invoke the 4 dispute resolution provisions of the 5 agreement within a reasonable time 6 after July 2020. 7 Intel also moved on a not 8 unreasonable pace in seeking to stay 9 this case while it sought relief under 10 the dispute resolution procedure in 11 the agreement and sought to enforce 12 that agreement in the Court of 13 Chancery. 14 While it may be true that 15 Intel could have attempted to plead 16 its defense in this case several weeks 17 earlier than it did, it is also true 18 that VLSI had notice of Intel's 19 position that it had acquired a 20 license under the settlement long 21 before Intel filed this motion, at 22 least as early as September 2020. 23 Under the unique 24 circumstances, I find that Intel has</p>	<p style="text-align: right;">56</p> <p>1 first. If a proposed amendment is 2 frivolous or advances a claim or 3 defense that is legally insufficient 4 on its face, the Court may deny a 5 leave to amend. 6 VLSI makes two arguments 7 about futility. VLSI's first argument 8 has multiple parts, but essentially it 9 argues that Intel could not possibly 10 have obtained a license to the 11 asserted patents under the Finjan 12 settlement. 13 At its core of its argument 14 VLSI points to a number of facts that 15 according to VLSI demonstrate that the 16 agreement did not grant Intel a 17 license. 18 However, at this stage and 19 without the benefit of a full factual 20 record, I'm not prepared to say as a 21 matter of law that there was no way 22 that Intel could have obtained a 23 license to VLSI's patents pursuant to 24 that agreement.</p>

<p>57</p> <p>1 VLSI is free to reraise its 2 challenge to Intel's license defense 3 at the summary judgment stage. 4 Turning to VLSI's second 5 argument about futility, it argues 6 that Intel's license defense is futile 7 because Intel has conceded that this 8 Court lacks subject-matter 9 jurisdiction over the license defense. 10 I don't see a concession. 11 Intel has maintained that it wants to 12 litigate the license issue in the 13 Court of Chancery, but I don't read 14 that as a concession that this Court 15 lacks subject-matter jurisdiction over 16 Intel's license defense. 17 In sum, VLSI has not shown 18 that Intel's defense is frivolous or 19 otherwise legally insufficient on its 20 face. I therefore find that it is not 21 futile at this stage. 22 VLSI also argues that it 23 would be prejudiced by the delay in 24 entry of final judgment in this case</p>	<p>59</p> <p>1 now been extended by stipulation by 2 over a year. 3 The parties dispute whether 4 any additional discovery is needed, 5 but Intel, the party who has suggested 6 the need for additional discovery, has 7 represented that it might be completed 8 in approximately four months. 9 In my view there is no 10 reason why that discovery can't 11 proceed in the next four months with 12 summary judgment motions to be filed 13 after, or, if the parties can't agree 14 to further delay summary judgment 15 motions, a month and a half of 16 discovery can be had before the 17 summary judgment briefing process 18 begins, and ten more weeks can occur 19 while the summary judgment process is 20 ongoing on the other issue wans. 21 And should either side wish 22 to move for summary judgment on the 23 license issues, it seems to me that it 24 could work out a procedure whereby</p>
<p>58</p> <p>1 that would result from allowing Intel 2 leave to amend and then severing and 3 staying the license defense. 4 But VLSI's argument 5 presupposes that the Court will sever 6 and stay Intel's license defense. 7 Whether a stay is appropriate is a 8 separate question from whether Intel 9 should be allowed to amend. 10 Of course it is possible 11 that permitting Intel to assert a 12 license defense will cause some delay 13 in getting to trial since fact 14 discovery may need to be reopened. 15 But I know that the topics 16 of discovery are discrete, and Intel 17 has represented today that there is 18 likely no need for any additional 19 expert discovery. 20 I also note that there is 21 currently no trial date set, and the 22 parties have consistently been moving 23 the expert discovery and summary 24 judgment motion deadlines, which have</p>	<p>60</p> <p>1 they could submit short supplemental 2 summary judgment motions and let Judge 3 Connolly know what number they want 4 him to rank them in his standard 5 ranking process for summary judgment 6 motions. 7 In other words, with some 8 creative scheduling, there is a way to 9 get this done where the case only gets 10 delayed by ten weeks or less or not at 11 all, and I can't find that that is 12 unduly prejudicial given the parties' 13 previously agreed-upon extensions. 14 So in sum I find that VLSI 15 will not be unduly prejudiced, and I 16 therefore grant Intel's motion seeking 17 leave to file its amended answer. 18 The remaining question is 19 whether to grant Intel's request to 20 sever and stay the license defense. 21 The Court has discretion 22 under Federal Rule of Civil Procedure 23 42(b) to bifurcate any issue or 24 counterclaim for convenience, to avoid</p>

<p style="text-align: right;">61</p> <p>1 prejudice, or to expedite and 2 economize. The Court has discretion 3 to stay proceedings and otherwise 4 control its docket. 5 Courts in this district 6 typically rely on three factors in 7 determining whether a stay is 8 appropriate: One, whether a stay will 9 simplify the issues for trial, two, 10 whether discovery is complete and a 11 trial date has been set, and, three, 12 whether a stay would unduly prejudice 13 or present a clear tactical 14 disadvantage to the nonmoving party. 15 Although the three-factor 16 test informs the Court's inquiry, that 17 test is not a prescriptive template. 18 The district court retains the 19 discretionary prerogative to balance 20 considerations beyond those captured 21 by the three-factor stay test. 22 Intel wants the Court to 23 stay its license defense pending 24 Intel's case against VLSI and others</p>	<p style="text-align: right;">63</p> <p>1 any, the Court of Chancery thinks it 2 has jurisdiction to decide and against 3 who, we can make an informed decision 4 about whether it makes sense to 5 bifurcate the standing issues in this 6 court. 7 For the reasons I've 8 stated, Intel's motion is granted in 9 part, and by in part, Intel's request 10 for leave to file its second amended 11 complaint is granted. Intel's request 12 to sever and stay its defense of 13 license is denied. 14 The parties are further 15 ordered to meet and confer within 14 16 days and provide a status report on 17 how they would like to proceed with 18 any remaining discovery that may be 19 needed as well as any further 20 deadlines in the case. 21 Any disputes about those 22 issues should be directed to whichever 23 judge has those disputes, which I 24 don't think is me. I'll let you all</p>
<p style="text-align: right;">62</p> <p>1 in the Court of Chancery. Intel has 2 provided no other basis for severing 3 and staying. 4 However, as we discussed 5 during the hearing today, there is a 6 pending motion to dismiss in the 7 chancery court case, and I understand 8 from what the parties have said today 9 that the chancery court has requested 10 supplemental briefing on whether it 11 has subject-matter jurisdiction. 12 What I don't want to have 13 happen is for us to be in a situation 14 where the chancery court grants the 15 motion to dismiss months from now and 16 then it's too late to get the license 17 issue back on track for trial in the 18 main case here. 19 So I'm going to deny 20 Intel's request to sever and stay 21 without prejudice to refile it after 22 the Court of Chancery rules on its 23 subject-matter jurisdiction. 24 Once we see what issues, if</p>	<p style="text-align: right;">64</p> <p>1 figure it out. 2 Any questions from VLSI? 3 MR. JABLON: No. Thank 4 you, Your Honor. 5 THE COURT: Thank you. 6 Any questions from Intel? 7 MR. LANTIER: No, Your 8 Honor. Thank you. 9 THE COURT: All right. I 10 hope everybody's having a great 11 summer. It's good to see you. I hope 12 you and your families are safe and 13 well. Take care. We'll be adjourned. 14 (Proceedings concluded at 15 3:27 p.m. Eastern Time.) 16 17 18 19 20 21 22 23 24</p>

65

REPORTER'S CERTIFICATE

I, SUSAN ARNOLD YODER, Registered
Professional Reporter and Notary Public,
do hereby certify that the foregoing
record, pages 1 through 63 inclusive, is
a true and accurate transcript of my
stenographic notes taken on July 6,
2021, in the above-captioned matter.

IN WITNESS WHEREOF, I have hereunto
set my hand and seal this 6th day of
July, 2021, at Wilmington.

Susan A. Yoder

SUSAN ARNOLD YODER, RPR